

SENATE TAXATION 9
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**2011 Montana Legislative
Joint Tax Committee Training
January 14, 2011**

**Overview of Central Assessment Issues
Taxpayer Perspective**

Presenter:

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With thanks to Montana Taxpayer Association and its members

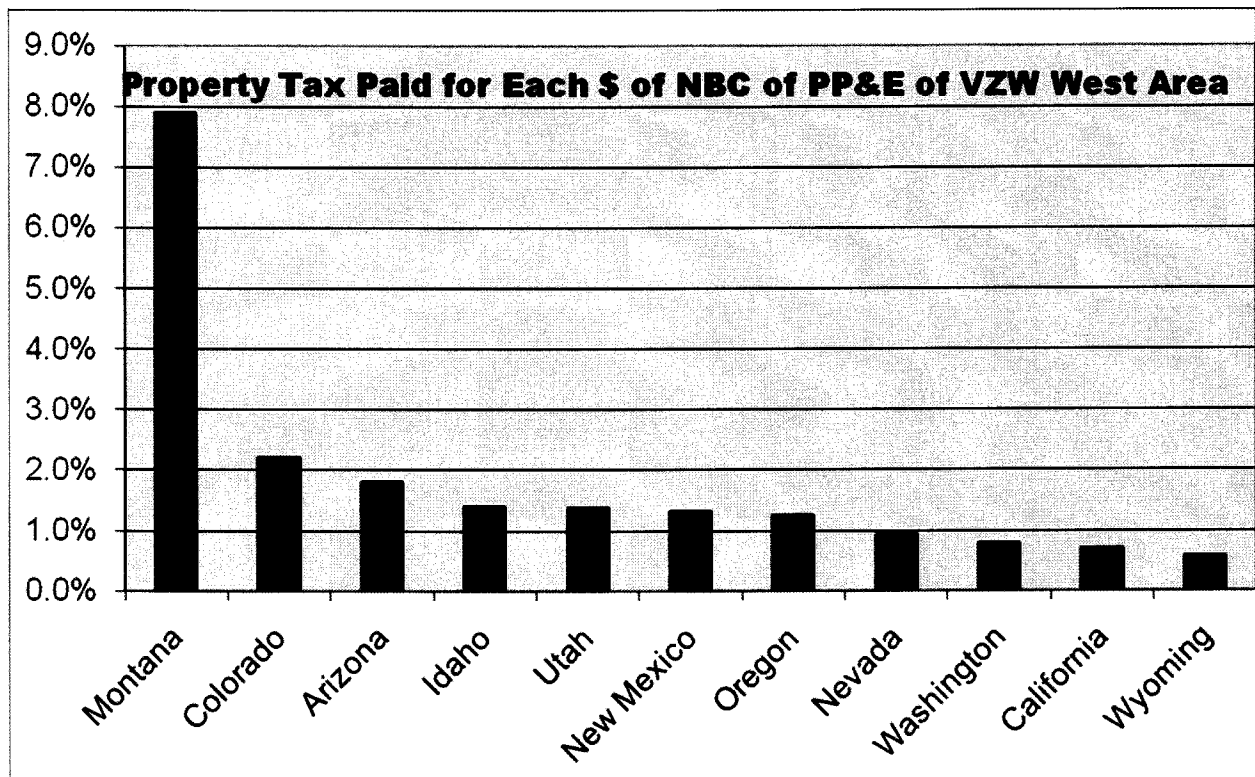
C R O W L E Y F L E C K
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Primary Concern- Significantly higher effective tax rates when compared to other Montana taxpayers and other states. This has created a situation where taxpayers are litigating and protesting taxes because Montana's values and taxes have become unreasonably high.

Primary Drivers:

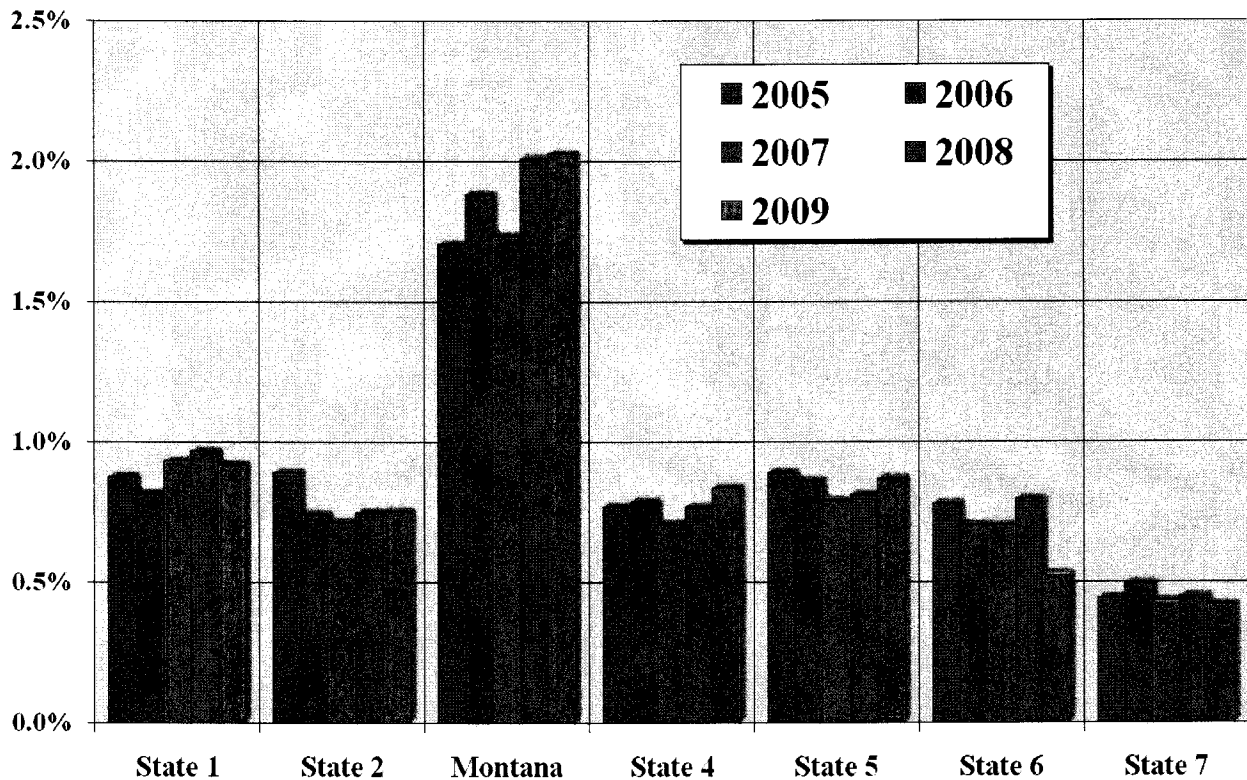
1. Montana's statutory classifications and higher rates for most centrally assessed properties. (*Omimex* example)
 - a. Class 4 real properties (commercial and residential)- 2.82% for 2010, with favorable exemptions
 - b. Class 8 (business equipment)- 3%
 - c. Class 9 (electrical and gas transmission and distribution, pipelines, etc.)- 12%
 - d. Class 13%- (electrical generation, telecommunications)- 6%
2. Department's continued use of enterprise valuation techniques improperly includes values of intangible assets
 - a. Locally assessed properties are appraised so only the value of tangible property is captured. (*McDonald's vs. 4J's* example)
 - b. Centrally Assessed companies are valued at the company level as a going concern.
3. Department refuses to allow intangible deductions beyond default percentages for indicators other than cost (*Verizon Wireless* example)
4. Department refuses to recognize statutorily required obsolescence (*Qwest* example)
5. Extreme frustration with review/appeal process
 - a. Department refusing to consider reasonable adjustments in informal review
 - b. Taxpayers do not believe they are getting a fair hearing at STAB
 - various taxpayers have retained huge number of experts who all provide consistent evidence which has been uniformly rejected
 - STAB has upheld Department values even where recognizing the appraisals were not properly performed
 - c. The appeal process is time consuming and expensive and imposes unreasonable burdens on taxpayers and taxing jurisdictions

Verizon Wireless

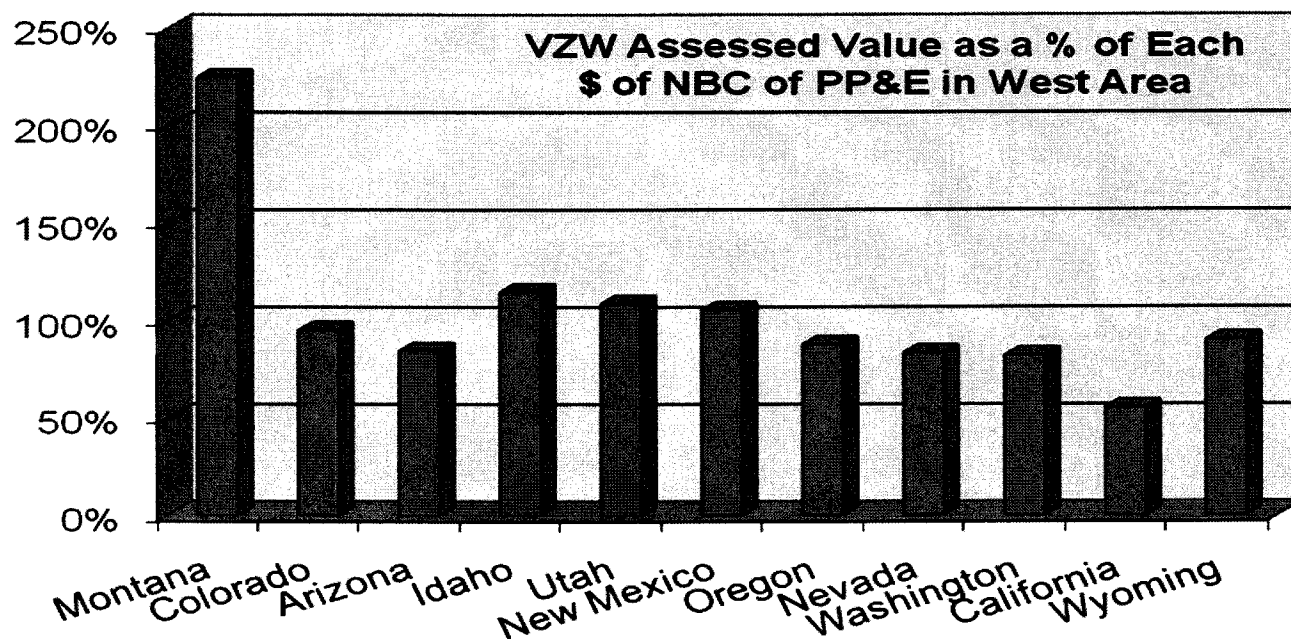


PacifiCorp

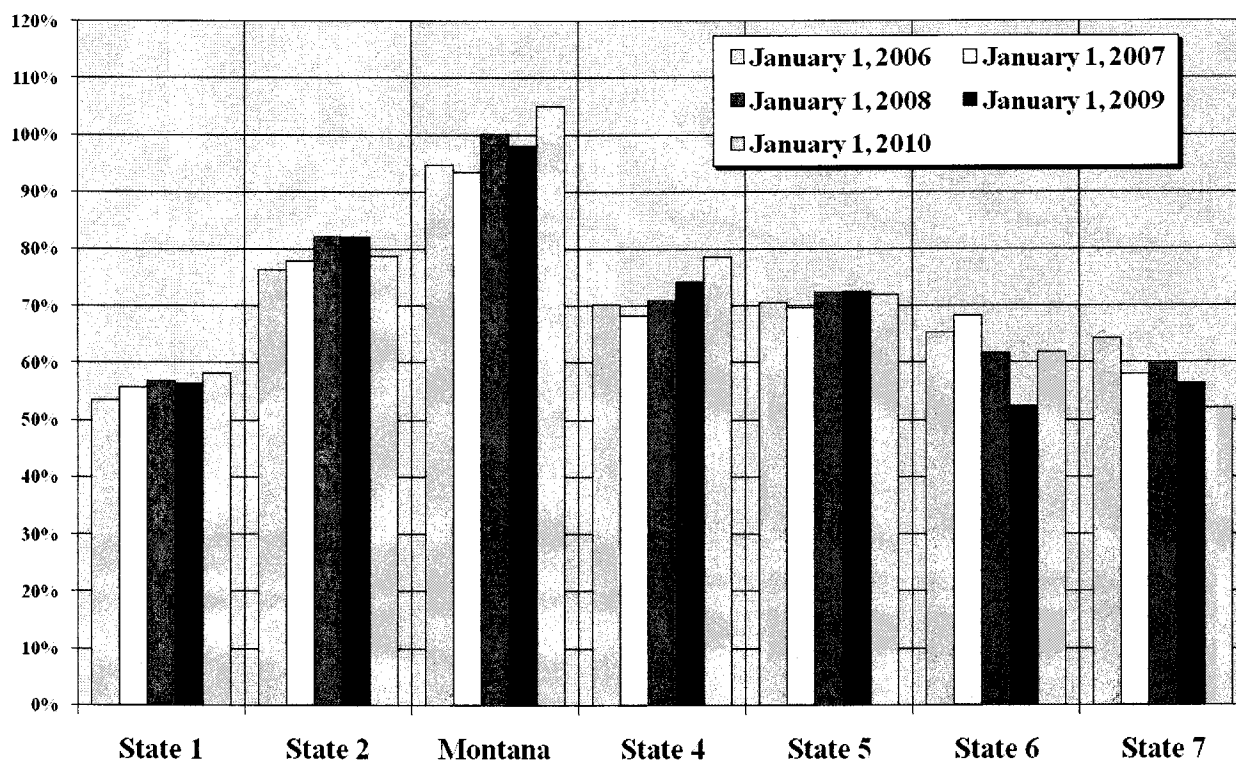
Property Tax Paid for Each \$1.00 of Investment



Verizon Wireless



PacifiCorp Assessed Value for Each \$1.00 of Investment



Statements regarding taxation of intangible values:

If a statute, properly construed, contemplates only the taxation of horses and wagons, then those belonging to an express company can be taxed at no higher value than those belonging to a farmer. But, if the state comprehends all property in its scheme of taxation, then the good will of an organized and established industry must be recognized as a thing of value. The capital stock of a corporation and the shares in a joint-stock company represent not only the tangible property, **but also the intangible, including therein all corporate franchises and all contracts, privileges, and good will of the concern.**

Adams Express v. Ohio State Auditor, 166 U.S. 185, 221 (1897) (emphasis added).

As a result of the theoretical and practical difficulties in isolating and valuing intangible property starting from the unit or enterprise value, we find that the only certain way to avoid taxing intangible property is to abandon the market value standard and use reproduction cost.

WSATA CCAP Appraisal Handbook (Aug. 2009), p. VI-5 (citing Walters, Lawrence C., Ph.D., J. Michael Pinegar, Ph.D., and James S. Schallheim, Ph.D., "A Review of Centrally Assessed Property Tax Issues in Utah," 4 – 5, underlined in the original, (December 17, 1997). Report was prepared under contract with the Utah Office of Legislative Research and General Counsel, for the Utah Tax Review Commission.)